

The only issue before the Board on this appeal is whether claimant provided respondent with timely notice of his accidental injury as required by K.S.A. 44-520.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the parties' arguments, the Board finds and concludes the preliminary hearing Order should be affirmed.

Respondent and its insurance carrier do not challenge that claimant slipped at work on July 2, 2005. As a result of that incident, claimant experienced some soreness or pain in his right groin, which he attributed to a muscle pull. Approximately two weeks later, claimant noticed a bulge in his right groin, which prompted him to seek medical treatment. Claimant saw a physician on July 18, 2005, and learned at that time that he had an inguinal hernia. The next day, July 19, 2005, claimant reported his accidental injury to respondent.

The Workers Compensation Act requires an injured worker to report an accident or injury within 10 days (excluding weekends and holidays) of the incident. But that 10-day period can be extended to 75 days when the worker can establish reasonable justification, or "just cause," for failing to report the incident within the initial 10-day period.¹

For purposes of preliminary hearing, the Board finds claimant established just cause for reporting his accidental injury to respondent more than 10 days following the incident.

The Board finds claimant's symptoms following the July 2, 2005, incident were relatively insignificant. Claimant did not seek medical treatment immediately following the incident as he believed the incident merely caused muscle soreness, which he testified was minimal.

Q. (Mr. Snider) All right. And after this injury occurred -- well, on 7-2-05, did you -- what symptoms were you having when the injury -- when the slip first happened, what symptoms were you having?

A. (Claimant) It [right groin] was hurting a little bit.²

Rather than seeking medical treatment or leaving work, claimant continued working. In the days following the incident, claimant experienced intermittent discomfort in his groin. And it was not until July 18, 2005, when claimant noticed a bulge in his groin and consulted a physician, that claimant was aware he had something more than common muscle soreness.

¹ K.S.A. 44-520.

² P.H. Trans. at 11.

The Workers Compensation Act is to be liberally construed to bring employers and employees within the Act's provisions. But the Act is also to be applied impartially.

It is the intent of the legislature that the workers compensation act shall be liberally construed for the purpose of bringing employers and employees within the provisions of the act to provide the protections of the workers compensation act to both. The provisions of the workers compensation act shall be applied impartially to both employers and employees in cases arising thereunder.³

The Board finds that claimant was justified in believing he had sustained a relatively innocuous event when he slipped on July 2, 2005. The legislature did not intend that every ache and pain that a worker experienced at work should be reported as a work-related injury. Accordingly, the Board concludes in this instance claimant was justified for failing to report his July 2, 2005, accident and injury until July 19, 2005. Consequently, the January 5, 2006, preliminary hearing Order should be affirmed.

WHEREFORE, the Board affirms the January 5, 2006, Order entered by Judge Barnes.

IT IS SO ORDERED.

Dated this ____ day of February, 2006.

BOARD MEMBER

c: Michael L. Snider, Attorney for Claimant
Matthew J. Schaefer, Attorney for Respondent and its Insurance Carrier
Nelsonna Potts Barnes, Administrative Law Judge
Paula S. Greathouse, Workers Compensation Director

³ K.S.A. 44-501(g).